



**ORIGINAL NEW APPLICATION**  
**Arizona Department of Transportation**  
**Intermodal Transportation Center**  
 206 South Seventeenth Avenue Phoenix, Arizona 85007-3213



0000112885

Janice K. Brewer  
 Governor

John S. Halikowski  
 Director

May 26, 2010 Arizona Corporation Commission

Floyd Roehrich Jr.  
 State Engineer

**DOCKETED**

JUN 10 2010

DOCKETED BY	nr
-------------	----

Arizona Corporation Commission  
 Office of Railroad Safety  
 Attn: Chris Watson  
 1200 W Washington Street  
 Phoenix, AZ 85007

RE: Application to install concrete crossing surface and 2 gate/flasher combo units  
 Project: BIA 101 Road / Sam's Crossing  
 Federal Project # STP-000-6(130)P  
 ADOT Tracs # 0940 GI ISC SR149 01C  
 Arizona Eastern Railway DOT 742 336 V

RR-02634A-10-0239

RECEIVED  
 2010 JUN 10 PM 12:35  
 AZ CORP COMMISSION  
 DOCKET CONTROL

Mr. Watson,

This application is being submitted to allow the Arizona Eastern Railway (AZER) to replace an existing crossing with concrete crossing panels, and install 2 flasher/gate combo units to provide train warning to the traveling public as part of the FHWA Section 130 program. This work was identified thru the 1998 array. The project delay was due to the AZER office burning down in 2002 and the recent execution of the ADOT- San Carlos Apache Nation Intergovernment Agreement.

**1. Project Location and Description**

The project is located on the BIA 101 road just north of the BIA SR170 Highway.

The project will replace existing timber crossing surface with concrete crossing panels. 2 Flasher/gate combo units will be installed to warn the traveling public of train traffic. An extra set of flashing lights will be aimed towards SR 170 traffic that may turn onto the BIA 101 Road.

**2. Why the crossing is needed**

Based on the 1998 crossing improvement array, this crossing was selected for upgrades to the signals by installing the flasher/gate units and installing a concrete crossing surface.

**Construction Phasing**

Once an opinion and order is issued, AZER will acquire and install the equipment within 12 to 15 months.

**3. Maintenance of the crossing**

AZER will be responsible for installing and maintaining the crossing surface and signal equipment. San Carlos Apache Tribal Transportation will be responsible for maintaining the road approaches outside of AZER responsibility.

**4. Project Funding**

97.3% of the funding will be provided thru the Federal Highway Administration thru their Section 130/highway-railroad crossing safety improvement program. The ACC has already provided their 5.7% match for signal work and the San Carlos Apache Nation has provided their 5.7% match for the surface work

Costs are as follows:

AZER Signal Cost	<u>\$167,168.85</u>
FHWA funded	\$157,640.23
ACC funded	\$ 9,528.62

AZER Surface Cost	<u>\$ 97,290.41</u>
FHWA funded	\$ 91,744.86
Tribe Funds	\$ 5,545.56

Total Cost     \$264,459.26

5. Other information (based on typical Staff Data Requests):

: Most of the information is per attached 9/4/2009 email from Matthew Hopkins GIS technician for San Carlos Apache Tribal Transportation Planning Department:

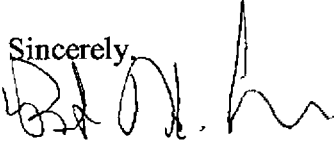
1. Provide Average Daily Traffic Counts for each of the locations. 2,992 ADT in 2009
2. Please describe the current Level of Service (LOS) at each intersection. Assume Level A
3. Provide any traffic studies done by the road authorities for each area. 2008 small area traffic study performed. Traffic counts provided by that study.
4. Provide the population of the City the crossing is located in. 2000 census: 3,716 persons
5. Provide what warning devices are currently installed at the crossing.  
Existing passive crossing warning consisting of cross buck signs only
6. Provide distances in miles to the next public crossing on either side of the proposed project location. Are any of these grade separations?  
BIA 2 road is approximately 2 miles south and is at-grade. A separate application will be submitted to install active warning signals at that crossing. SR 170 crossings is approximately ½ mile east and is at grade with active warning signals.
7. How and why was grade separation not decided on at this time? Please provide any studies that were done to support these answers.  
Grade separation not considered as part of this Section 130 safety upgrade. Due to low train volume, Tribe is not considering grade separation.
8. If this crossing was grade separated, provide a cost estimate of the project. Unknown costs.  
Estimate \$8,000,000 to \$10,000,000 in this rural area.
9. Please describe what the surrounding areas are zoned for near this intersection. i.e. Are there going to be new housing developments, industrial parks etc.

Local zoning is residential with future development anticipated that will lead to increased traffic.

10. Please supply the following: number of daily train movements through the crossing, speed of the trains, and the type of movements being made (i.e. thru freight or switching). Is this a passenger train route?  
No passenger traffic. AZER has 2 train trips per day at 10 mph.
11. Please provide the names and locations of all schools (elementary, junior high and high school) within the area of the crossing.  
San Carlos High School (928-475-2378)  
San Carlos Junior High School 928-475-2262  
San Carlos Elementary School 928-475-2315  
San Carlos Intermediate School 928-475-2315  
San Carlos Head Start 928-475-2740  
45 San Carlos Ave  
San Carlos, AZ 85550  
Located 1 mile north of the crossing
12. Please provide school bus route information concerning the crossing, including the number of times a day a school bus crosses this crossing.  
Minimal of 10 school bus crossings per day.
13. Please provide information about any hospitals in the area and whether the crossing is used extensively by emergency service vehicles.  
EMS does not use the crossing extensively. Public Safety Vehicles use the crossing daily.
- Closest Medical Facility:  
San Carlos Indian Health Service 928-475-2371  
223 Seneca Lane  
San Carlos, AZ 85550  
Located 1 mile north of the crossing
14. Please provide total cost of the railroad improvements to each crossing. Cost described above.
15. Provide any information as to whether vehicles carrying hazardous materials utilize this crossing and the number of times a day they might cross it.  
  
No normal/ common hazardous material crossing truck use unless US 70 is closed and that traffic detours onto this crossing.
16. Please provide the posted vehicular speed limit for the roadway.  
BIA 101 road is 20 MPH
17. Do any buses (other than school buses) utilize the crossing, and how many times a day do they cross the crossing.  
TANF Transit has a high density use of this crossing as well as Forestry Crew vans and CHR transportation traffic use
18. Please indicate whether any spur lines have been removed within the last three years inside a 10 mile radius of any crossings covered in this application. Please include the reason for the removal, date of the removal and whether an at-grade crossing or crossings were removed in order to remove the spur line.  
No known abandonment

19. Please fill in the attached FHWA Grade Separation Guidelines Table, (from FHWA's 2007 revised second edition Railroad Highway Grade-Crossing Handbook, page 151) with a yes or no answer as to whether each item applies. Also, please provide all information to support your answers of yes or no (i.e. vehicle delay numbers, any calculations that were performed to get the answers).
20. Based on the current single track configuration at the crossings specified by this application, please provide the current traffic blocking delay per train. Please indicate the time in which vehicular traffic is delayed (1) to allow the train to pass at a crossing and (2) due to trains stopped on the track for any purpose. The delay is measured from the point that the warning devices are activated at the crossing to the time after the train has cleared the crossing and the warning devices are reset.
- Due to low train volume, no known extensive delays.

Sincerely,



Robert Travis, PE  
State Railroad Liaison  
Arizona Department of Transportation  
205 S 17th Ave, Room 357  
MD 618E  
Phoenix, AZ 85007  
602-712-6193 602-712-3229 fax  
[rtravis@azdot.gov](mailto:rtravis@azdot.gov)

enclosures

cc: Barney Bigman, San Carlos Apache Tribal Transportation  
Kathy Holguin, Arizona Eastern Railway

File

## FHWA - GRADE SEPARATION GUIDELINES

Highway-rail grade crossings should be considered for

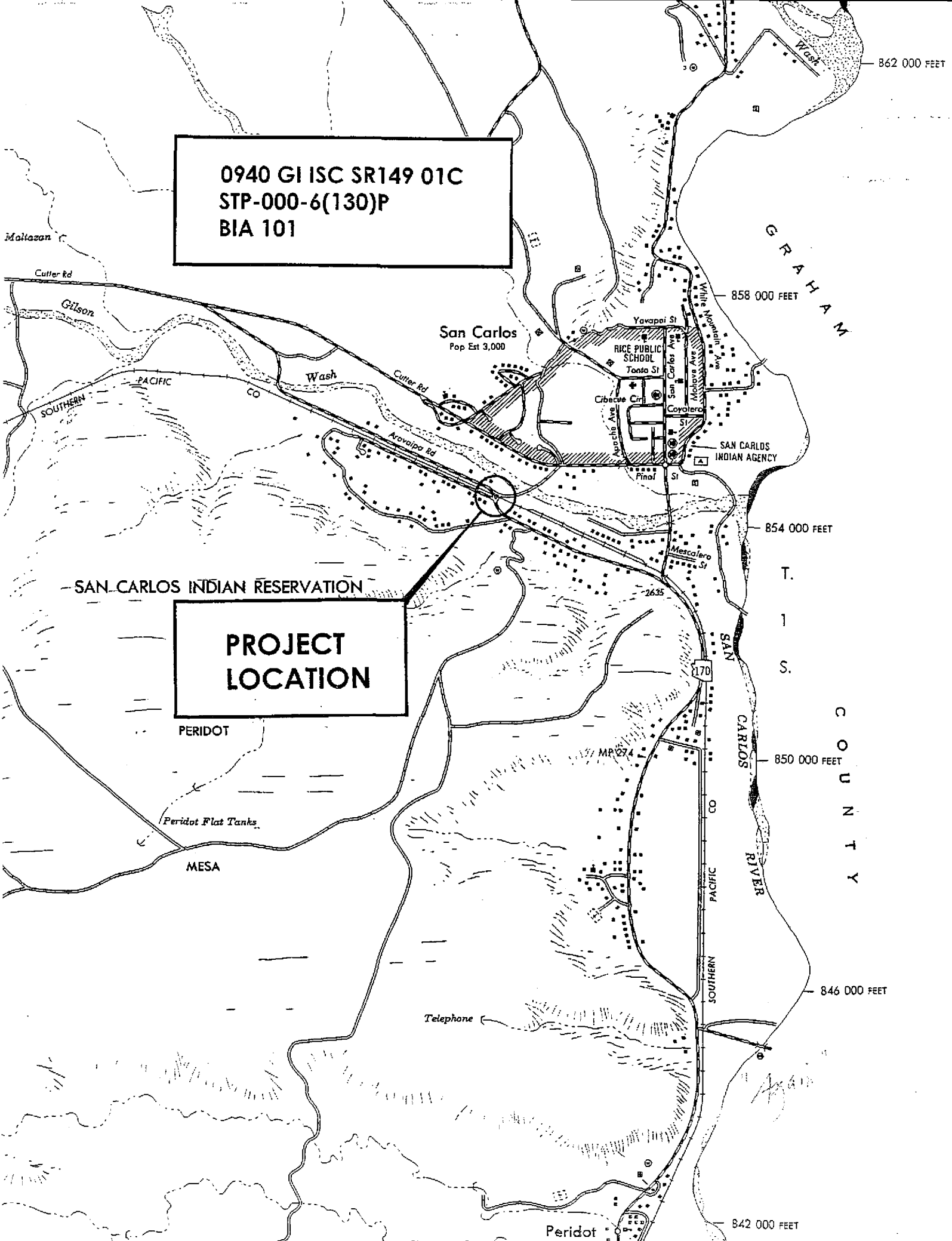
grade separation or otherwise eliminated across the railroad

**right of way whenever one or more of the following conditions exist:**

**BIA 101 Road/ Sam's Crossing DOT 742 336 V**

The highway is a part of the designated Interstate Highway System	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	No				
The highway is otherwise designed to have full controlled access	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	No				
The posted highway speed equals or exceeds 70 mph	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	No				
AADT exceeds 100,000 in urban areas or 50,000 in rural areas	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	No				
Maximum authorized train speed exceeds 110 mph	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	No				
An average of 150 or more trains per day or 300 million gross tons/year	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	No				
Crossing exposure (trains/day x AADT) exceeds 1M in urban or 250k in rural; or passenger train crossing exposure exceeds 800k in urban or 200k in rural	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	Unknown- assume no				
Expected accident frequency for active devices with gates, as calculated by the US DOT Accident Prediction Formula including five-year accident history, exceeds 0.5	Crossing Currently meets the criteria	0.042- NO				
	Crossing meets the criteria by 2030	Unknown- assume no				
Vehicle delay exceeds 40 vehicle hours per day	Crossing Currently meets the criteria	No				
	Crossing meets the criteria by 2030	Unknown- assume no				

0940 GI ISC SR149 01C  
STP-000-6(130)P  
BIA 101



B/A 707

Install Standard  
Flashers  
4 Set of Heads

12'

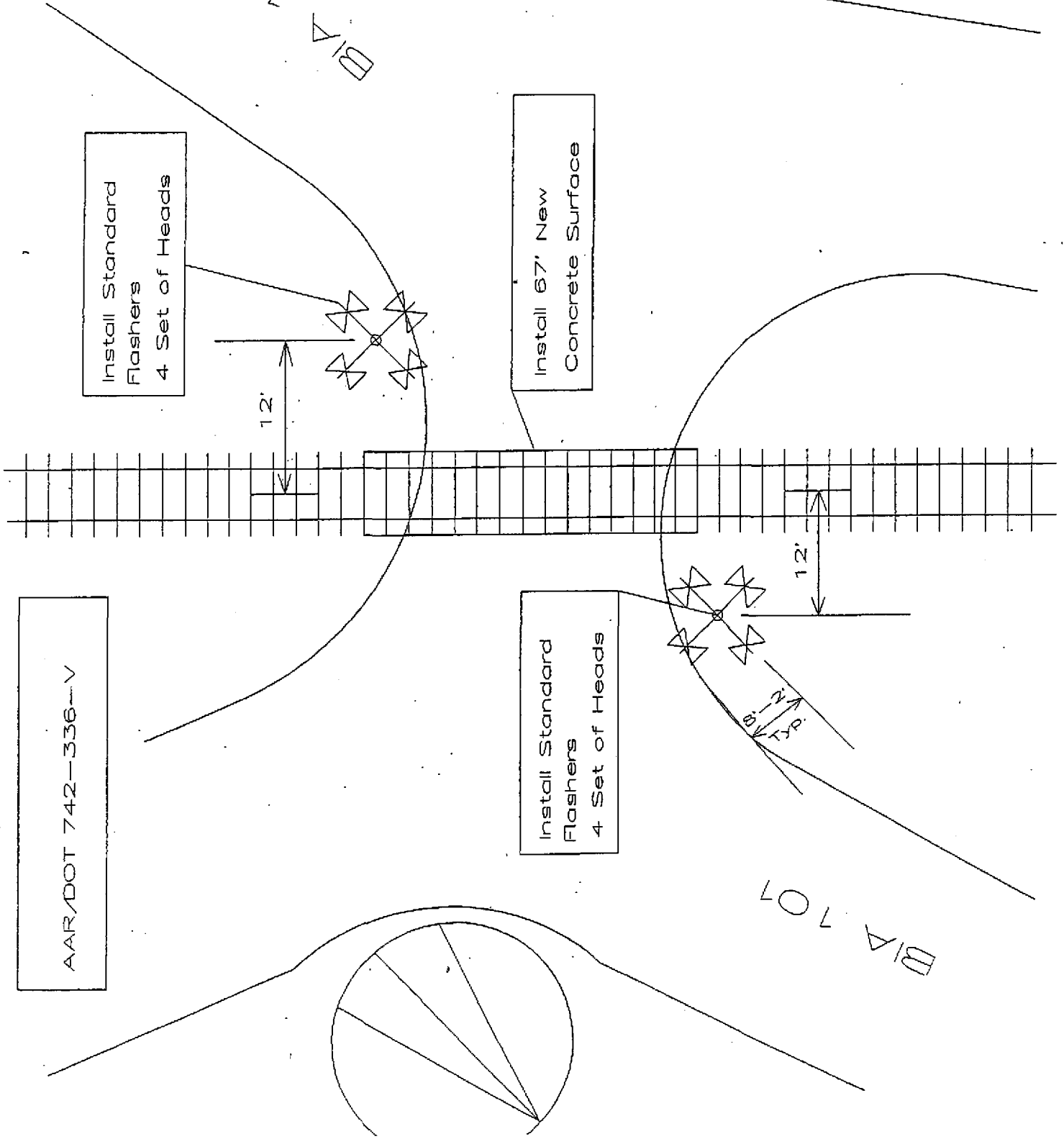
Install 67' New  
Concrete Surface

12'

Install Standard  
Flashers  
4 Set of Heads

B/A 707

AAR/DOT 742-336-V



Crossing Name: BIA 101 (Sam's Crossing) San Carlos

Crossing AAR/DOT # 742-336-V

Project Number: STP-000-6(130)P

Tracs Number: SR14901C

Date: 9/2/09

1. **Provide Traffic counts for the crossing with data that is less than 3 years old. If possible, please also provide percent of truck traffic at the crossing.**

*Automatic Traffic Counts were conducted adjacent to the Railroad Crossing Site (BIA 101 in 2008. Traffic Counter Locations recorded eastbound and west bound directional traffic) volume for 48 hour period. These locations are geographically identified along with coinciding "average volume" in a GIS map provided (see Figure. 1 TRAFFIC COUNTS). The results for the 2008 Traffic Counts can also be provided on Excel spreadsheet format, upon request. There is currently no data available to identify percent of truck traffic at the crossing. Another traffic study, such as a Manual Intersection Volume Count, would have to be conducted in order to identify the percentage of truck traffic occurring at the crossing.*

2. **Provide the speed limit at the crossing.**

*Speed limits posted adjacent to the railroad crossing is twenty miles per hour.*

3. **Provide number of school bus crossings per day. Is the crossing on a bus route?**

*The crossing is located on bus routes for five local schools and may experience a minimal number of ten crossings per day. A specific traffic study, such as a Manual Intersection Volume Count, would have to be conducted in order to identify actual number of school bus crossings per day are occurring at the crossing. It should be noted that two schools off the reservation (Destiny School and Globe Unified School District) have bus routes that pick-up students on the reservation and may utilize the crossing as part of their route.*

4. **Advise if other buses (worker transport, charter/tour bus, etc., transit) use the crossing and how often per day.**

*There are other buses (TANF Transit) using the crossing daily, however, actual crossings per day would have to be identified by conducting another specific traffic study, as mentioned earlier. The route was described as "low density" by the TANF Transit Supervisor in a discussion regarding crossing usage in transit routes.*

5. **Advise if crossing is regularly used by trucks carrying hazardous materials and how often. Is crossing on a designated truck route or hazardous materials route?**

*The crossing is not "regularly" used by trucks carrying hazardous materials, unless a major road closure occurs and highway traffic re-routed through the area. However, trains transport hazardous materials through the area on a regular basis.*

6. **Is the crossing used extensively by EMS/ public safety vehicles?**

*The crossing is used not extensively by EMS; however, public safety vehicles (San Carlos Police Dept.) use the crossing extensively on a daily basis. Another traffic study, such as a Manual Intersection Volume Count, would have to be conducted in order to identify actual number of EMS/public safety vehicles utilize the crossing per day.*

7. **Is there extensive pedestrian use of the crossing?**

*There is extensive use of pedestrian use of the crossing, however, another traffic study, such as a Manual Intersection Volume Count, would have to be conducted in order to identify actual number of pedestrian crossings per day occur at the crossing.*



**8. Have any traffic studies been done in the area?**

*In 2008, Jacobs Engineering conducted a small area traffic study for the Tribe utilizing automatic count recording methods using portable counters. (Mentioned previously)*

**9. If surface upgrades are proposed, is it possible to completely close down the crossing for 1 to 3 days? If so what would be the detour route?**

*It is possible to completely close down the crossing for 1 to 3 days. The detour route would be: Indian Route 6 (E. Pinal St.) to San Carlos Ave. to Highway 170 (E. Arivaipa St.).*

**10. Has Grade separation been considered? If so, what would be the estimated cost?**

*Due to the low frequency of train traffic (~2 runs per day) and accidents, grade separation has not been considered by the tribe. Cost estimates would be between five and eight million dollars.*

**11. What is the surrounding zoning, and is there potential for development leading to increased traffic at the crossing?**

*The zoning at the two locations is residential and is planned for future development and increased traffic is expected.*

**12. Please provide the name and contact number for all schools in the area.**

*Area Schools: 1) San Carlos High School – ph: 928.2378; 2) San Carlos Junior high School – ph: 928.475.2262; 3) San Carlos Elementary – ph: 928.475.2315; 4) San Carlos Intermediate – ph: 928.475.2315; and 5) San Carlos Headstart Program – ph: 928.475.2740.*

**13. Please provide the name and contact number for the closest Hospital or medical facility.**

*The closest medical facility is: San Carlos Indian Health Service – ph: 928.475.2371.*

**14. Are you aware of extensive train caused delays at the crossing? If so, estimate of delay time per day would be appreciated.**

*Due to the low frequency of train traffic volume (1-2 runs a day) there are no known extensive delays at the crossing. If a delay occurs it may range from 5 to 10 minutes.*

FIGURE. 1 TRAFFIC COUNTS

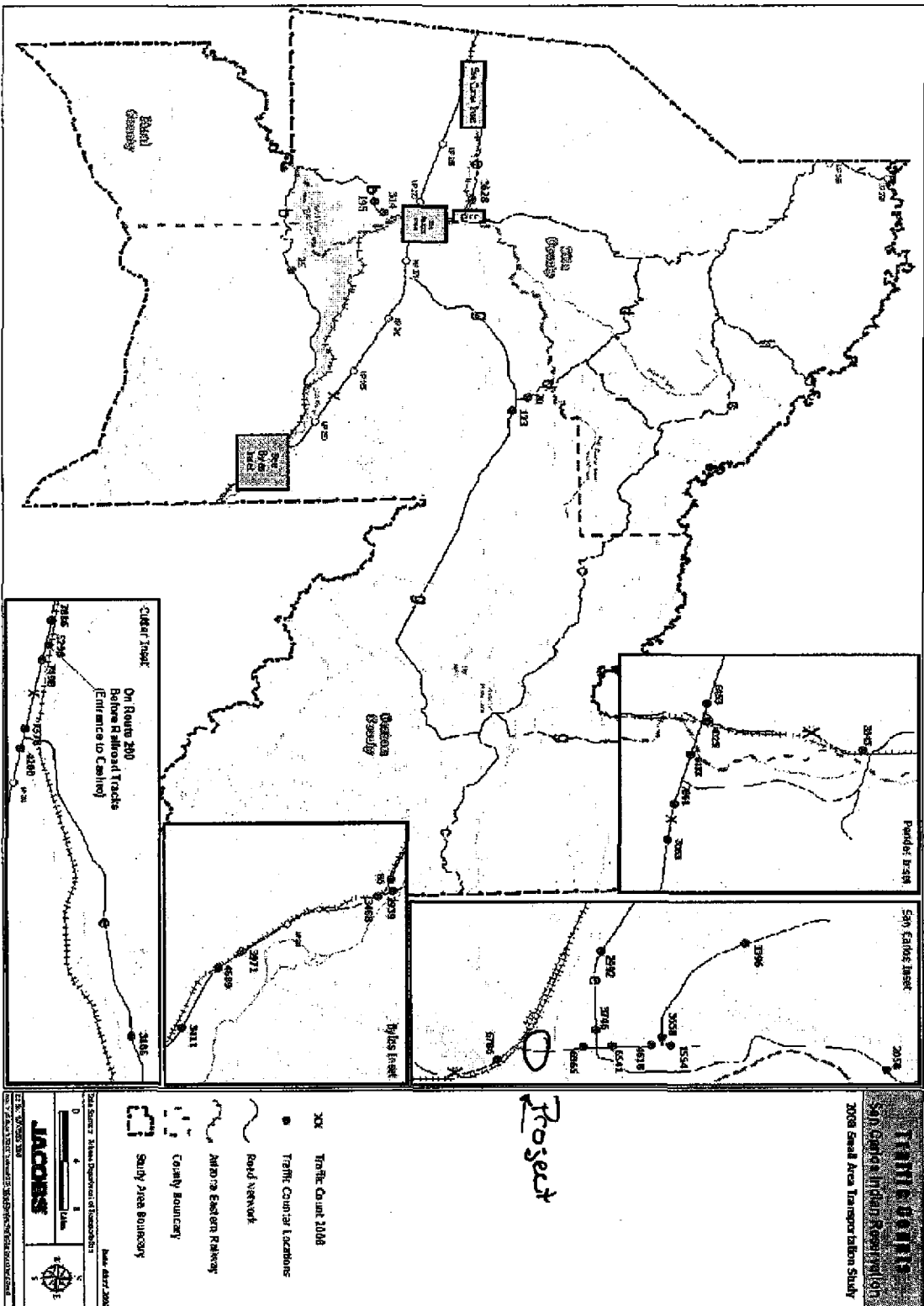
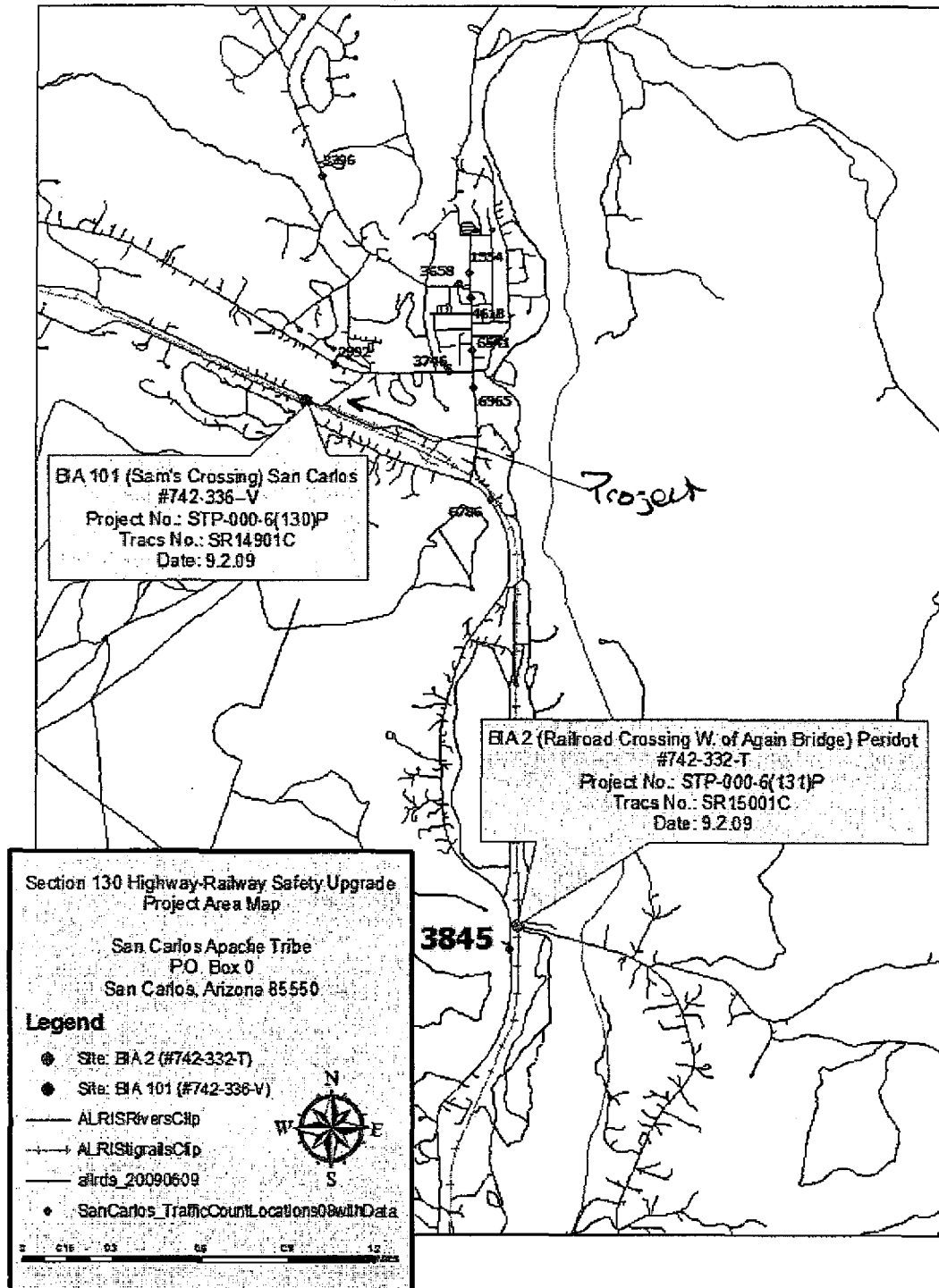


Figure 2. Project Area Map



# ARIZONA DEPARTMENT OF TRANSPORTATION

## UTILITY AND RAILROAD ENGINEERING SECTION

### RAILROAD AGREEMENT

#### FEDERAL AID

Between

**THE STATE OF ARIZONA**

and

**ARIZONA EASTERN RAILWAY COMPANY**

AGREEMENT NO.: 2808-06-AZER  
TRACS NO.: 0940 GI ISC SR149 01C  
PROJECT NO.: STP-000-6(130)P  
RAIL/HIGHWAY SAFETY PROGRAM  
LOCATION: BIA 101  
AAR/DOT NO.: 742-336-R

THIS AGREEMENT is made between the STATE OF ARIZONA, acting through its DEPARTMENT OF TRANSPORTATION, and the ARIZONA EASTERN RAILWAY COMPANY, a corporation. All lettered exhibits are incorporated and made a part of this agreement by reference and attachment regardless of designation or alphabetical order.

**ADOT ORIGINAL**

## INDEX

<u>Section</u>	<u>Page</u>
INDEX	2
I. RECITALS	3
II. DEFINITIONS	3
III. AGREEMENT	3
A. Construction Requirements	3
1. Changes in scope of WORK	4
2. Federal-Aid Project	4
B. Securing Funds	4
C. Subcontracting	4
1. Equal Opportunity	5
D. Start/Completion Date	5
E. Maintenance	5
F. The Acceptance Date	5
IV. SCHEDULES	6
A. RAILROAD Construction Schedule	6
V. PAYMENTS	6
A. Submission of Invoices	6
1. Material Procurement & Payment	7
2. Payments	7
3. Timely Payment of Invoices	8
4. Reimbursements	8
VI. LIABILITY	8
A. Liability	8
VII. STATUTORILY MANDATED TERMS	8
A. Arbitration	8
B. Budget Limitations	9
C. Executive Order 75-5	9
D. Cancellation by Governor	9
E. Records Retention and Audit	9
Signature & Notary Public Page	10
Exhibit "A" Cost Estimate	
Exhibit "B" Plans	

## **I     RECITALS:**

The purpose of this agreement is to furnish and install flashers, gates and a concrete crossing surface at BIA 101, in the County of Gila, State of Arizona, where same crosses the property and tracks of RAILROAD at railroad milepost BDA 1201.37.

## **II    DEFINITIONS:**

A. ADOT means the ARIZONA DEPARTMENT OF TRANSPORTATION.

B. AGREEMENT means this specific agreement and all attachments incorporated by reference.

C. A.R.S. means Arizona Revised Statutes

D. MUTCD means the "Manual on Uniform Traffic Control Devices" and any amendments and/or revisions thereto.

E. RAILROAD means the RAILROAD COMPANY

F. SPONSOR means the governmental authority that has jurisdiction over the roadway, the Bureau of Indian Affairs, San Carlos Agency.

G. WORK means engineering, design, preparation of plans, specifications, construction labor, materials and equipment called for in the AGREEMENT, including approved changes in scope.

## **III AGREEMENT:**

A. Construction Requirements.     The RAILROAD shall furnish all necessary WORK to its existing facilities in accordance with the RAILROAD plans marked EXHIBIT "B". The WORK shall comply with the Signal Manual of Recommended Practice, published by the

Association of American Railroads, the MUTCD and the installation procedures and recommendations of the crossing surface manufacturer.

1. Changes in Scope of WORK. Should some unforeseen condition or combination of conditions cause a change in the scope of WORK as called for by the plans, then RAILROAD shall not be obligated to incur, and ADOT shall not be obligated to reimburse RAILROAD for its share of the cost of WORK of changed scope until such change shall have been approved, in writing, by ADOT and RAILROAD.

2. Federal-Aid Project. Pursuant to the provisions of Federal-Aid Policy Guide, Part 646, there is no ascertainable net benefit to RAILROAD, and ADOT agrees to reimburse RAILROAD for one hundred percent (100%) of the cost and expense incurred in the furnishing of materials and performing the WORK as described in the "Summary of Estimate," marked EXHIBIT "A".

B. Securing Funds. It is understood and agreed that ADOT is acting as an agent for the SPONSOR in securing and administering Federal funds for this project. ADOT's liability is expressly limited to the securing and administering of Federal funds and ADOT assumes no other liability hereunder for the SPONSOR.

C. Subcontracting. The RAILROAD may, if not adequately staffed or equipped to perform the WORK required under this AGREEMENT, subcontract for the WORK using a proper competitive bidding process. The RAILROAD is hereby given permission to subcontract to the lowest responsible bidder. The RAILROAD agrees to furnish the bid amount of the successful bid to ADOT, upon request. If the RAILROAD wishes to

Agreement No. 2808-06-AZER

subcontract to other than the lowest responsible bidder, the RAILROAD must provide to ADOT the amount of the lowest responsible bidder and the amount of the bid from their chosen bidder along with written justification for the proposed choice. The RAILROAD agrees no selection will be made, other than the lowest responsible bidder, without ADOT's concurrence and written approval. ADOT reserves the right to reject any or all bids except the lowest responsible bid.

1. Equal Opportunity. In compliance with the regulations of the United States Department of Transportation, RAILROAD hereby agrees to comply fully with all of the provisions of Appendix "A" in those cases where RAILROAD does not perform the WORK contemplated in this Agreement with its own forces.

D. Start/Completion Date. Prior to commencing construction, RAILROAD agrees to notify ADOT, in writing, of the actual construction start date. Upon completion, RAILROAD agrees to notify ADOT, in writing, of the actual completion date. The construction start date shall not be prior to receiving a notice to proceed from ADOT. Construction progress payments shall not be made unless ADOT receives the notice of the actual construction start date. Final payment shall not be made unless ADOT receives the notice of the actual construction completion date.

E. Maintenance. After the installation the of WORK has been completed, RAILROAD shall maintain same as long as they remain in place.

F. The Acceptance Date. The acceptance date of this AGREEMENT shall be the day which the last party executes the AGREEMENT.



#### **IV SCHEDULES:**

A. *RAILROAD Construction Schedule.* The WORK to be performed by RAILROAD hereunder shall be commenced following ADOT authorization letter and shall be completed within such time as is ordered by the Arizona Corporation Commission in its Opinion and Order.

#### **V PAYMENTS:**

A. *Submission of Invoices.* The RAILROAD may submit to STATE itemized monthly invoices for WORK costs from the date of STATE's authorization for the RAILROAD to proceed with the WORK. Except for the final invoice, monthly invoices shall only be submitted for costs of five hundred dollars (\$500) or more. The RAILROAD shall, within ninety (90) days after completion of WORK, submit to STATE detailed invoices covering the actual cost of the WORK, including applicable taxes and standard RAILROAD overhead and subcontracting administration fee. Costs shall be accumulated and invoiced in accordance with the Federal Acquisition Regulations. The United States Code of Federal Regulations, 23CFR 646, is incorporated into this agreement by reference. All expenses incurred by RAILROAD for WORK which ADOT is obligated to reimburse RAILROAD for hereunder, including all WORK incidental to such WORK but not specifically mentioned herein, shall be subject to the provisions of the Federal-Aid Policy Guide 23CFR 140. Invoices shall include the appropriate AGREEMENT and CONSTRUCTION TRACS numbers and shall be labeled as "Progress Invoice" or "Final Invoice," as the case may be. In the absence of a compliant accounting system, STATE will allow a charge for overhead and indirect costs equal to five (5) percent of the total labor surcharges and materials. This

Agreement No. 2808-06-AZER

charge does not include any amount based on allowable subcontracts included in the AGREEMENT. If the RAILROAD wishes to use an existing continuing contract with a subcontractor, it shall supply STATE with supporting documentation as to the reasonableness of the cost. STATE will provide specific approval if the costs are deemed reasonable.

1. Material Procurement & Payment. Following execution of this instrument, RAILROAD will order the delivery of all materials required to perform the WORK contemplated herein and may submit to ADOT, upon receipt of all the aforementioned materials, an invoice for eighty percent (80%) of the cost of materials to be furnished by RAILROAD. ADOT will pay all of such bills within ninety (90) days after submittal by the RAILROAD.

2. Payments. ADOT agrees to reimburse RAILROAD for the actual costs of labor (including overhead on RAILROAD'S own direct labor), material (including shipping and handling), equipment, subcontracts, and outside services required to complete the WORK as shown on the plans, marked EXHIBIT "B". In addition, ADOT agrees to pay RAILROAD an agreed lump-sum administrative fee, if shown on EXHIBIT "A", to cover RAILROAD'S expenses in connection with administration of WORK by subcontract and outside services. All billings shall contain ADOT's project number and agreement number. The invoice shall be sent to:

ARIZONA DEPARTMENT OF TRANSPORTATION  
Utility & Railroad Engineering Section  
205 South 17th Avenue, Room 357E

Agreement No. 2808-06-AZER

Mail Drop 618E  
Phoenix, Arizona 85007

3. Timely Payment of Invoices. As soon as the WORK has been completed and placed in operation, RAILROAD shall submit to ADOT a final bill for the cost of WORK performed by RAILROAD, less any progress payments made by ADOT hereunder ADOT agrees to pay RAILROAD the amounts specified in the invoices described in this AGREEMENT above within ninety (90) days, provided RAILROAD shall have complied with the conditions of this Agreement.

4. Reimbursements. RAILROAD agrees to reimburse ADOT within ninety (90) days of notification, for any amounts ADOT disallows as a result of its audit. Any audit exceptions with which RAILROAD disagrees shall be paid to ADOT under protest subject to resolution.

## **VI LIABILITY:**

A. Liability. ADOT and the RAILROAD each agree to be liable to the other party for its own acts of negligence and the negligence of its own employees.

## **VII STATUTORY MANDATED TERMS:**

A. Arbitration. Claims and disputes between ADOT and RAILROAD involving sums less than \$100,000 and arising out of the terms of this Agreement relating to WORK performed, billing, and similar matters, shall be subject to arbitration, at the request of either party, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining; provided, however, that claims or disputes arising out

of personal injury, death, property damage, or environmental incidents shall not be subject to arbitration without the concurrence of both parties, except to the extent otherwise required by the rules of Arizona courts.

B. Budget Limitations. This AGREEMENT is subject to the provisions of Chapter 1 of Title 35, A.R.S.

C. Executive order 75-5. The RAILROAD shall comply with all applicable provisions of Executive Order 75-5, "Non-Discrimination in Employment by Government Contractors and Subcontractors".

D. Cancellation by Governor. All parties hereby are put on notice that this AGREEMENT is subject to cancellation by the Governor pursuant to A.R.S. §38-511.

E. Records Retention and Audit. Pursuant to A.R.S. Sections §35-214, §35-215 and §41-1279.04, all books, accounts reports, files and other records relating to this contract shall be subject at reasonable times to inspection and audit by ADOT for five (5) years after the receipt of final payment. Such records shall be produced by RAILROAD at such ADOT offices as designated by ADOT, or at ADOT's discretion said inspection and audit may be held at RAILROAD offices during normal business hours. ADOT shall conduct its inspection and audit at its sole expense. Final payment shall not include payments made pursuant to audit exceptions or made in resolution of payments under protest.

:

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT.

ARIZONA EASTERN RAILROAD CO.

ARIZONA DEPARTMENT OF  
TRANSPORTATION

By: Kathy Holquin

JOHN HALIKOWSKI, DIRECTOR

Robert Travis  
By: Robert Travis, PE  
Railroad Liaison, Utility & Railroad Section

Date: 8/24/09

Date: 4-14-2010

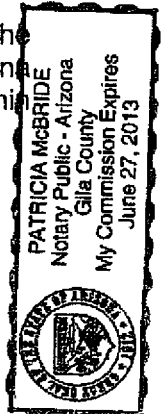
STATE OF ARIZONA )  
COUNTY OF GILA ) §

On this the 24 day of Aug., 2009, before me, the undersigned Notary Public, personally appeared, Kathy Holquin, Arizona Eastern Railroad Company, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires: June 27, 2013

Patricia McBride  
Notary Public



STATE OF ARIZONA )  
COUNTY OF MARICOPA ) §

On this the 14th day of April, <sup>2010</sup>~~2009~~, before me, the undersigned Notary Public, personally appeared Robert Travis the Railroad Liaison, U&RR Section, Arizona Department of Transportation, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purpose therein contained.

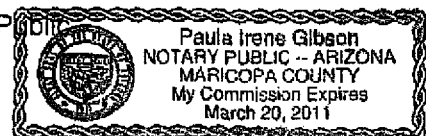
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

March 20, 2011


Paula Irene Gibson

Notary Public



Agreement No. 2808-06-AZER

APPROVED

  
Assistant Attorney General  
Attorney for Department  
of Transportation

Date 8/12/09

Exhibit A  
Cost Summary  
Agreement 2808-06-AZER  
Tracs: 0940 GI ISC SR149 01C  
Project No. STP-000-6(130)P  
Rail/Highway Safety Program  
Location: BIA 101 Road in San Carlos  
DOT No.: 742 336 R

Surface Work

Preliminary Engineering	\$ 500.00
Material	\$47,984.25
Labor	\$23,491.98
Equipment	\$ 7,316.00
Other (w/o Prelim Engineering)	\$10,879.80
Tax	<u>\$ 3,868.38</u>

Total	\$94,040.41
-------	-------------

Signal Work

Preliminary Engineering	\$ 3,500.00
Material	\$107,968.00
Labor	\$ 24,000.00
Equipment	\$ 9,500.00
Other (w/o Prelim engineering)	\$ 12,208.00
Tax	<u>\$ 6,742.85</u>

Total	\$163,918.85
-------	--------------

AZER Administration Fee	\$ 6,500.00
-------------------------	-------------

Agreement Total	\$264,459.26
-----------------	--------------

\* Railroad will invoice ADOT for 100% of total work.

Railroad will separate Preliminary Engineering costs from Construction costs. ADOT will pay Railroad 100% of total invoice and invoice ACC for its portion.

# ARIZONA EASTERN RAILWAY COMPANY

P.O. Box 2200 Claypool, Arizona 85532 (928) 473-2447 Fax: (928) 473-2449

October 20, 2005

Mr. John Syers  
ARIZONA DEPARTMENT OF TRANSPORTATION  
Intermodal Transportation Division  
Utility & Railroad Engineering Section  
205 South 17<sup>th</sup> Avenue, Mail Drop 618E  
Phoenix, Arizona 85007-3213

RE: TRACS No. 0940 GI ISC SR149 01C  
Project No. STP-000-6(130)P  
RAIL/HIGHWAY SAFETY PROGRAM  
BIA 101 (San Carlos Indian Reservation)  
Arizona Eastern Railway Company  
AAR/DOT No: 742-336-R  
RR MP BDA 1201.37

Dear John:

Enclosed is the revised detailed estimate for the above referenced crossing project.

## **SURFACE & TRACKWORK ESTIMATE:**

MATERIAL:	\$ 47,984.25
LABOR:	\$ 23,491.98
EQUIPMENT:	\$ 7,316.00
OTHER:	\$ 11,379.80
TAX:	\$ 3,868.38
TOTAL:	\$ 94,040.41

## **SIGNALWORK ESTIMATE:**

TOTAL (see attached):	\$ 157,176.00
TAX:	\$ 6,742.85
TOTAL:	\$ 163,918.85

AERY ADMINISTRATION FEE	\$ 6,500.00
-------------------------	-------------

<b>GRAND TOTAL:</b>	<b>\$ 264,459.26</b>
---------------------	----------------------

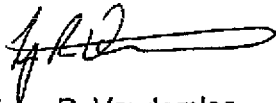
0940 GI ISC SR149 01C  
Project No. STP-000-6(130)P  
Agreement No. 2808-06-AZER  
Exhibit "A"  
Sheet No. 2 of 8



October 20, 2005  
AERY - BIA 101  
Page Two

We look forward to working with you on this project. Please feel free to contact our office with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Vanderplas", with a long horizontal flourish extending to the right.

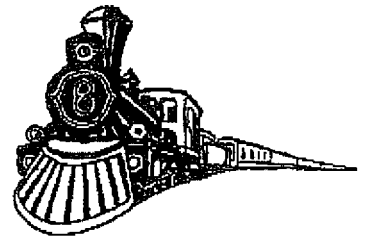
Terry R. Vanderplas  
Mountain States Contracting, Inc.

0940 GI ISC SR149 01C  
Project No. STP-000-6(130)P  
Agreement No. 2808-06-AZER  
Exhibit "A"  
Sheet No. 3 of 8

## COST ESTIMATE

DATE: SEPTEMBER 20, 2005

TO: ARIZONA EASTERN RAILWAY CO.  
P. O. BOX 2200  
CLAYPOOL, AZ 85532-1008  
FAX: 928-473-2449

**RAILROAD TRAFFIC CONTROL, INC.**

## LOCATION:

BIA-101 - SAN CARLOS INDIAN RESERVATION  
TRACS NO. 0940 GI ISC SR149 01C  
PROJ. NO. STP-000-6(130)P MP BDA-1201.37  
DOT NO. 742-338V

## ESTIMATED PROJECT COST

PRELIMINARY ENGINEERING	\$3,500.00
CONSTRUCTION ENGINEERING	\$3,500.00
SIGNAL MATERIAL	\$84,249.00
COMMERCIAL MATERIAL	\$19,219.00
ADMINISTRATIVE EXPENSE	\$6,208.00
RENTAL EQUIPMENT	\$7,000.00
MEALS, LODGING & TRANSPORTATION	\$2,000.00
LABOR INCLUDING, PAYROLL, TAXES, INSURANCES, PROFIT	\$22,000.00
SHIPPING CHARGES FOR MATERIAL	\$3,500.00
CONTINGENCIES	\$1,000.00
STONE & FILL	\$1,000.00
CLERICAL EXPENSE	\$1,500.00
CONSTRUCTION EQUIPMENT, TOOLS, TRAILERS, TRUCKS - PLUS OPERATING COSTS	\$2,500.00
<b>COST ESTIMATE TOTAL</b>	<b>\$157,176.00</b>

NOTE: STATE AND LOCAL TAXES IF APPLICABLE SHOULD BE ADDED TO THIS ESTIMATE.

4824 Valley View Ct. • Dunwoody, GA 30030 • (770) 393-2298

0940 GI ISC SR149 01C  
Project No. STP-000-6(130)P  
Agreement No. 2808-06-AZER  
Exhibit "A"  
Sheet No. 4 of 8

## COST ESTIMATE - LOCATION - BIA-101 SAN CARLOS INDIAN RESERVATION SEPTEMBER 20, 2005

<u>UNITS</u>	<u>SIGNAL MATERIAL</u>	<u>PRICE</u>
2	GATE COMP. WITH B/B L.E.D. LIGHTS, POLE, JUNCTION BOX, BELL, X-BUCK, SIGN, GATE KEEPER, FOUNDATION, HIGH WIND BRACKET, GATE ARM TO BE 10M (30') EXTRA SET OF BACK TO BACK LIGHTS	\$31,594.00
1	CONTROL HOUSE WITH FAN, LIGHTS, RECEPTACLES, BREAKERS, ADJUSTABLE LEGS	\$12,801.00
1	MOTION SENSOR PMD-3R/RMM	251094-201
1	MD3A-1	250204-001
2	XLC UNIT	250991-000
1	VLG UNIT	250948-000
1	VRO UNIT	250651-000
1	GFD-3 GROUND FAULT DETECTOR	
2	RELAY BASE KIT XLC	251071-010
1	RELAY BASE KIT VLG	251071-100
1	XAP-20 ARRESTER PANEL	227162-000
8	LTG. ARRESTER AGA	202218-001
4	EQUALIZER ARRESTER AGE	202217-000
6	TERMINAL BLOCK 2 3/8"	250183-001
2	RECTIFIER CRAAG	40EC-12V
1	EMERGENCY PANEL	
1	GROUND PLATE	
4	HOLE STRAP 36"	
8	PADLOCK	
1	HOUSE DECAL	
2	POLE DECAL	
12	BATTERY 400 AH	
2	HAND HOLE JCT. BOX	
4	NARROW BANK SHUNT	
	<b>SIGNAL MATERIAL TOTAL</b>	<b>\$84,249.00</b>

COST ESTIMATE - LOCATION - BIA-101 SAN CARLOS INDIAN RESERVATION SEPTEMBER 20, 2005

<u>UNITS</u>	<u>COMMERCIAL MATERIAL</u>	<u>PRICE</u>
1	RAIL BONDING	\$1,500.00
1	A.C. POWER SUPPLY	\$1,530.00
15M	CONDUIT 4" IMC	\$268.00
40M	CONDUIT 3"	\$483.00
300M	CABLE 4C #8	\$2,000.00
160M	CABLE 2C #6 TW	\$1,318.00
8	TRACK CONNECTION KIT	\$1,600.00
1	CONTROL HOUSE WIRING	\$7,000.00
1	EVENT RECORDER C.C. T.V.	\$3,500.00
	<b>COMMERCIAL MATERIAL TOTAL</b>	<b>\$19,219.00</b>

# MOUNTAIN STATES CONTRACTING, INC.

NAME: ARIZONA EASTERN RAILWAY COMPANY  
 CITY/STATE: SAN CARLOS INDIAN RESERVATION, ARIZONA  
 ROAD: BIA 101  
 LINE/SUB: MAINLINE  
 RE MP: 1201.37  
 TRACS NO: 0940 GI ISC SR149 01C  
 PROJ. NO: STP-000-6(130) P  
 AAR/DOT NO: 742-336-R

# REVISED SURFACE & TRACK ESTIMATE SHEET

DESC. OF WORK: REBUILD CROSSING  
 DATE: 10/20/2005  
 BY: TRV  
 MSC JOB NO: \_\_\_\_\_

## TRACK DATA:

TOTAL TRACK 172.00 TF  
 SURFACE 72.00 FT  
 ROAD APPROACH 10.00 TF  
 TOTAL DAYS 6.00 EA

DESCRIPTION	QUALITY	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
<b>MATERIAL (INCD. FREIGHT):</b>					
RAIL: 37"	R	8.61	NT	\$ 987.00	\$ 8,501.36
RAIL: THERMITE WELD KITS	N	10.00	PC		
BARS: TO MATCH	R	4.00	EA	\$ 132.00	\$ 528.00
INSULATED JOINTS	N	2.00	PR	\$ 78.50	\$ 157.00
COMP BARS 136/75	R	4.00	PR	\$ 429.00	\$ 1,716.00
PLATES: 6" B, DS	R	233.20	EA	\$ 298.00	\$ 69,585.60
ANCHORS: DRIVE-ON	R	486.40	EA	\$ 7.10	\$ 3,454.24
BOLTS: 1 1/8" x 6 1/2"	R	0.13	KG	\$ 1.90	\$ 0.25
WASHERS: 1 1/8"	N	12.00	EA	\$ 278.00	\$ 3,336.00
SPIKES: 5/8"x 6"	N	4.00	KG	\$ 0.84	\$ 3.36
X-TIES: 7"x 9"	N	51.60	EA	\$ 104.00	\$ 5,366.40
X-TIES: 7"x 9"x 10' B1	R	65.00	EA	\$ 49.75	\$ 3,234.75
CONCRETE CROSSING PANELS: 10' W x 8', OMEGA	N	72.00	TF	\$ 72.00	\$ 5,184.00
BALLAST VIA TRUCK	N	173.32	NT	\$ 284.00	\$ 49,222.88
HOT MIX ASPHALT	N	53.33	NT	\$ 21.40	\$ 1,141.27
CONDUIT: 4" SCHED 40	N	200.00	LF	\$ 44.00	\$ 8,800.00
				\$ 4.25	\$ 850.00

TOTAL MATERIAL ESTIMATE: \$ 47,984.25

0940 GI ISC SR149 01C  
 Project No. STP-000-6(130)P  
 Agreement No. 2808-06-AZER  
 Exhibit "A"  
 Sheet No. 7 of 8

**LABOR (INCD. TRAVEL TIME):**  
Rates include wages, insurance, Offt, burden, & per diem

SUPERINTENDENT (ST)	1.00	EA	60.00	MH	\$	64.25	\$	3,855.00
TRACK FOREMAN (ST)	1.00	EA	48.00	MH	\$	41.05	\$	1,970.40
TRACK FOREMAN (OT)	1.00	EA	12.00	MH	\$	61.58	\$	738.90
EQUIPMENT OPERATOR (ST)	2.00	EA	96.00	MH	\$	33.89	\$	3,253.44
EQUIPMENT OPERATOR (OT)	2.00	EA	24.00	MH	\$	50.84	\$	1,220.04
TRACK LABORERS (ST)	6.00	EA	288.00	MH	\$	31.45	\$	9,057.60
TRACK LABORERS (OT)	6.00	EA	72.00	MH	\$	47.18	\$	3,396.60

**TOTAL LABOR ESTIMATE: \$ 23,491.98**

**EQUIPMENT**

TRUCK: PICK-UP	1.00	EA	6.00	DY	\$	105.00	\$	630.00
TRUCK: 5-TON SERVICE/CREW W/ TRAILER	1.00	EA	6.00	DY	\$	242.00	\$	1,452.00
SKID STEER LOADER	1.00	EA	6.00	DY	\$	205.00	\$	1,230.00
FRONT-END LOADER	1.00	EA	6.00	DY	\$	378.00	\$	2,268.00
AIR COMPRESSOR W/TOOLS	1.00	EA	6.00	DY	\$	105.00	\$	630.00
HYD POWER UNIT W/ TOOLS	1.00	EA	6.00	DY	\$	141.00	\$	846.00
ASPHALT ROLLER	1.00	EA	1.00	DY	\$	175.00	\$	175.00
ASPHALT PLATE TAMPER	1.00	EA	1.00	DY	\$	85.00	\$	85.00
TRUCKING				LD	\$	1,175.00	\$	-

**TOTAL LABOR ESTIMATE: \$ 7,316.00**

**OTHER:**

ENGINEERING			1.00	LS	\$	500.00	\$	500.00
SAWCUT ROADWAYS			144.00	LF	\$	2.35	\$	338.40
TRAFFIC CONTROL			6.00	DY	\$	1,000.00	\$	6,000.00
DETOUR			1.00	LS	\$	425.00	\$	425.00
HAUL OFF EXCAVATED MATERIAL			11.76	LD	\$	350.00	\$	4,116.40

**TOTAL OTHER ESTIMATE: \$ 11,379.80**

**SALES TAX:**  
6.6% OF 65%

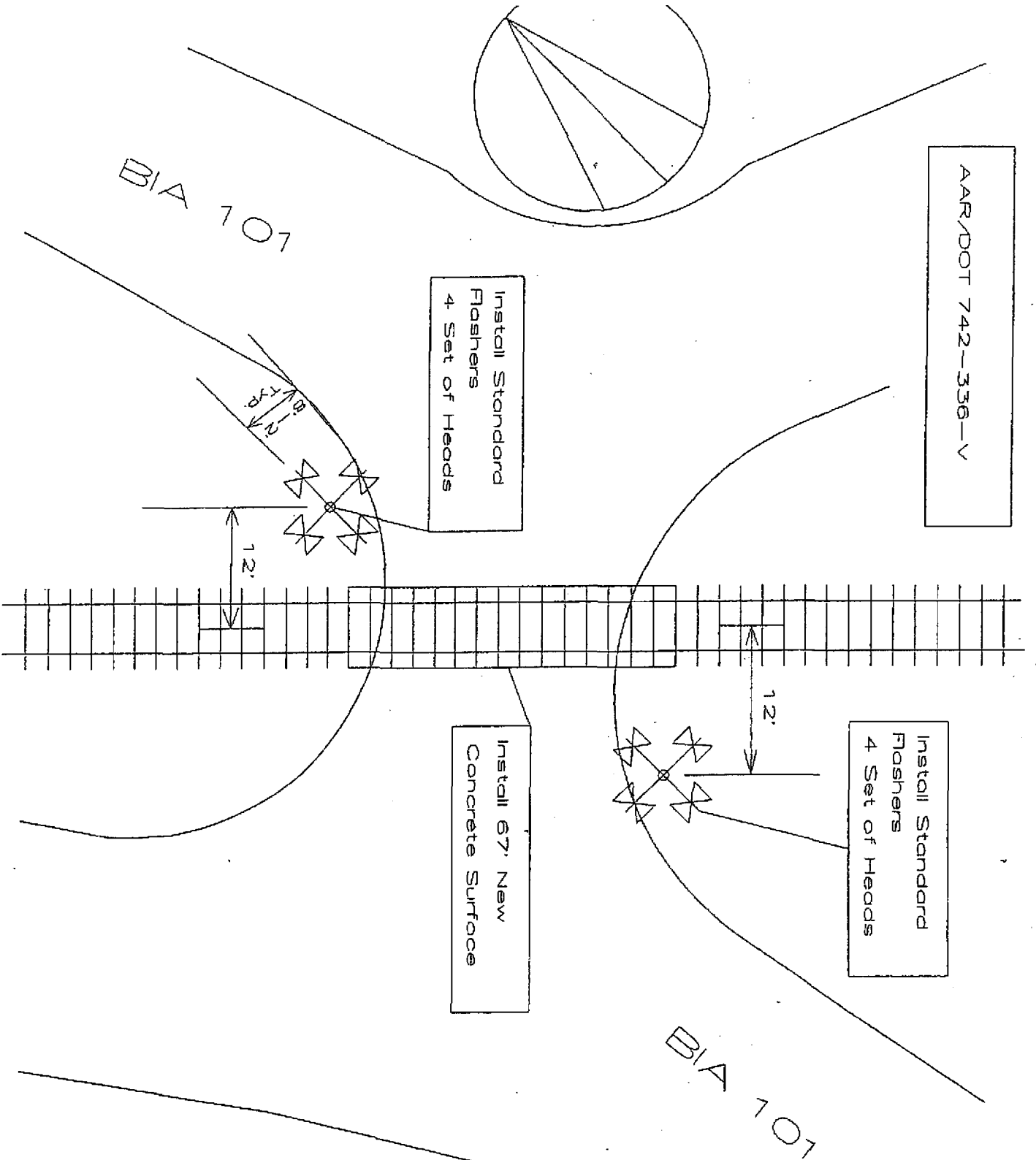
90,172.02	6.60%	\$	3,868.38
-----------	-------	----	----------

**TOTAL SALES TAX ESTIMATE: \$ 3,868.38**

**TOTAL SURFACE & TRACK ESTIMATE: \$ 94,040.40**

0940 GI ISC SR149 01C  
Project No. STP-000-6(130)P  
Agreement No. 2808-06-AZER  
Exhibit "A"  
Sheet No. 8 of 8

AAR/DOIT 742-336-V



0940 GI ISC SR149 01C  
Project No. STP-000-6(130)P  
Agreement No. 2433-02-AZER  
Exhibit "B"  
Sheet No. 1 of 1

APPENDIX A  
(Revised)

II EQUAL OPPORTUNITY

1. Selection of Labor:

During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.

2. Employment Practices:

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractors' commitments under this section II-2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.



f. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of this Section II-2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. Selection of Subcontractors. Procurement of Materials, and Leasing of Equipment:

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

a. Compliance With Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provision of this paragraph 3 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.